



10 July 2023

## Victorian Civil and Administrative Tribunal requirements for Health Practitioner Regulation National Law matters

The Australian Society of Medical Imaging and Radiation Therapy (ASMIRT) is the peak body representing medical radiation practitioners in Australia. Our aims are to promote, encourage, cultivate and maintain the highest principles of practice and proficiency of medical radiation science, always mindful that the welfare of the patient should be at the centre of everything we do.

Please find some additional feedback on the Victorian Civil and Administrative Tribunal requirements for Health Practitioner Regulation National Law matters Consultation document.

Page 9	<p>Paragraph 2 Final sentence regarding recruitment.</p> <p>ASMIRT notes that there is nothing advertised on the VCAT Careers website for Medical Radiation practitioners, nor have we seen anything published by Ahpra or ASMIRT recruiting.</p>
Page 10	<p>Dot point 2 regarding addition of community members.</p> <p>ASMIRT acknowledges that this is a valuable approach as it takes the patient/public's perspective into consideration.</p>
Page 11	<p>Dot point 1 regarding the addition of a Lay person.</p> <p>This is the same as the requirements in QLD</p>
Page 12	<p>Reforms to improve timeliness of meetings. Paragraph 3 referencing one panel member.</p> <p>The suggestion that the president could conduct a hearing or disciplinary proceeding without the assistance of assessors if it is urgent, is of concern. ASMIRT suggests that any urgent matter would be one where professional input would be of great importance.</p>
Page 12	<p>Paragraph 6 referencing constituting a panel.</p> <p>ASMIRT highly recommends that VCAT identifies processes to improve the recruiting process for medical radiation practitioners on the panel, rather than remove the need for these practitioners on the panel. They have unique knowledge and expertise in the area.</p>
Page 12	<p>Community or Health Consumer Expertise</p>

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### Registered Office:

Suite 1040-1044 (Level 10)  
1 Queens Road  
Melbourne Vic 3004  
Australia

### All Correspondence to:

P.O. Box 16234  
Collins Street West Vic 8007  
Australia

### Contact us:

T +61 3 9419 3336  
F +61 3 9416 0783  
W [www.asmirt.org](http://www.asmirt.org)



	ASMIRT acknowledges the benefits of including consumers and gender diversity into the panel, however caution that increasing the requirements on the content of a panel would make it more difficult to find the required criteria to form such a panel. These additional factors may add to the challenge, and potential time frames. ASMIRT recommends that consideration be given to mechanisms that will result in the most effective recruitment and management of a pool of suitable persons.
Page 14	Paragraph 4  ASMIRT re-iterates the importance of having a panel member representing the patient/public/community.

Whilst this process may be an immediate solution in the short-term given the shortage of panel members, this alteration of the rules to suit the current situation often leads to a reduction in quality being applied to the matter concerned. ASMIRT suggests the implementation of a measured approach to ensure that there are no significant long-term effects or outcomes. Experiences from ASMIRT members highlight the difficulties that can occur with panel considerations for non-related matters that required professional input. Due to a lack of professional representation in a small group, an alternate was regularly provided which did not have the expertise provided. The effectiveness of the process was impaired and was unfair to those involved.

ASMIRT also suggests that in the instance where attendance of professionals at a hearing is recognised as an issue, an alternative could consist of the case being reviewed out of session by a professional and a detailed report provided ahead of the hearing.

ASMIRT suggests the development of a process to address any matters raised in the hearing that were not adequately addressed in the report. This is what usually extends the hearings process.

### **Questions to assist with submissions:**

#### **What is your preferred option and why?**

*ASMIRT suggest Option 2*

#### **What are the problems and/or benefits of current panel composition requirements?**

*ASMIRT believes that there needs to be representation by a lay person.*

#### **Are you aware of any delays or issues that have occurred with scheduling a VCAT hearing because the panel constitution requirements could not be met (such as availability of panel members or the overall cost of proceedings)?**

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*ASMIRT were unaware of any delays with scheduling a VCAT hearing, nor were we aware that there was a challenge recruiting Medical Radiation practitioner panellists.*

**If you support amending the panel constitution requirements, what changes should be made?**

## **Under Option 2**

*Amend the panel constitution requirements:*

*ASMIRT suggests that the panel constitution requirements could be amended to ensure that there is an increase in community or health consumer expertise. The timeliness of hearings requires measures to improve availability of required personnel including professional representation. ASMIRT believes that the creation of any panel must be such that the complainant and practitioner get fair consideration of any case.*

*ASMIRT suggests that providing the President of VCAT with greater discretion to decide the constitution of the Tribunal may assist, as long as there is the appropriate expertise represented on the panel and there is no reduction in quality being applied to the matter concerned.*

*ASMIRT recommends that a lay person is added to the total number of members required to constitute a panel.*

*ASMIRT suggests that the context of the case should determine the health professions that are represented on a panel. If the case is of a technical nature, ASMIRT recommends that there must be two members of same profession on the panel.*

*ASMIRT believes it is important that a member of the panel have community or health consumer expertise.*

*ASMIRT suggests that at least one member of the panel is of the same gender as the person who received the health service.*

**Are there any National Law-related matters heard by the Tribunal that may not require any or profession-specific health practitioner expertise?**

*ASMIRT suggests that any misconduct that is not specific to the profession such as sexual misconduct, theft, fraud may not require any or profession-specific health practitioner expertise.*

**Are there alternative ways of bringing professional expertise or consumer expertise to the Tribunal – other than having a representative serving as a panel member – that should be considered?**

*ASMIRT does not believe so, as long as sub judice consideration is applied.*

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